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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

)	Case No.: 2:22-cv-6706
WALDO ROMO DE VIVAR JR. ,)	
)	COMPLAINT FOR DAMAGES
Plaintiff,)	1. VIOLATION OF THE
)	TELEPHONE CONSUMER
v.)	PROTECTION ACT, 47 U.S.C. §
)	227, ET. SEQ.
ELEVEN TALENTS, LLC D/B/A)	
HOMEBUYERS, INC.,)	
)	JURY TRIAL DEMANDED
Defendant.)	
)	
)	
)	
)	

COMPLAINT

Waldo Romo de Vivar Jr. (hereinafter referred to as “Plaintiff”), by and through his attorneys, Kimmel & Silverman, P.C., alleges the following against Eleven Talents, LLC d/b/a Homebuyers, Inc. (hereinafter referred to as “Defendant” or “Homebuyers”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. This Court has subject-matter jurisdiction over the TCPA claims in this action under 28 U.S.C. § 1331, which grants this court original jurisdiction of all civil actions arising under the laws of the United States. See Mims v. Arrow Fin. Servs., LLC, 565 U.S. 368, 386-87 (2012) (confirming that 28 U.S.C. § 1331 grants the United States district courts federal-question subject-matter jurisdiction to hear private civil suits under the TCPA).

3. This Court has personal jurisdiction over Defendant because Plaintiff is a California resident in the central district and all the events giving rise to this litigation occurred in California.

4. Specifically, Defendant knowingly and deliberately placed phone calls to Plaintiff's "323" area code, which is associated with the State of California.

5. Furthermore, Defendant caused certain calls to be made from "213", "650" and "916" area codes which are associated with the State of California.

6. Plaintiff experienced disruption and injury in this District, as a result of Defendant's acts and omissions.

7. Accordingly, this Court has personal jurisdiction over Defendant, and venue is proper under 28 U.S.C. § 1391(b)(2).

PARTIES

8. Plaintiff is a natural person who resides in Montebello, California.

9. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).

1 10. Defendant is a business entity with its principal place of business,
2 head office, or otherwise valid mailing address at 13575 Lyman Drive, Omaha,
3 Nebraska 68138-4408.

4 11. Defendant is a “person” as that term is defined by 47 U.S.C. §
5 153(39).

6 12. Defendant acted through its agents, employees, officers, members,
7 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
8 representatives, and/or insurers.

9 **FACTUAL ALLEGATIONS**

10 13. At all times relevant hereto, Plaintiff, Waldo Romo de Vivar Jr.
11 owned a cell phone, the number for which was (323) XXX-1323.

12 14. Plaintiff registered that cell phone number on the Federal Do Not Call
13 Registry on or around July 1, 2003.

14 15. Plaintiff registered that cell phone number on the Do Not Call list in
15 order to obtain solitude from invasive and harassing telemarketing calls.

16 16. Defendant is a real estate listing company focused on buying and
17 selling properties all over the United States.

18 17. Defendant engages in telemarketing in order to solicit business.

19 18. Beginning around June 2021 and continuing through at least August
20 of 2022, Defendant placed a series of telemarketing calls to Plaintiff.

21 19. Plaintiff did not consent to those telemarketing calls and prior to
22 Defendant’s telemarketing campaign, Plaintiff did not express an interest in
23 Defendant’s real estate services.

24 20. Defendant’s calls were not made for “emergency purposes.”

25 21. In total, Defendant placed at least 21 calls to Plaintiff, at dates/times
26 including the following:

Date/Time:	Caller ID:
June 28, 2021 at 4:18 PM	1-530-447-9159
June 28, 2021 at 5:04 PM	1-530-447-9159
June 28, 2021 at 5:15 PM	1-530-447-9159
June 28, 2021 at 5:16 PM	1-530-447-9159
June 29, 2021 at 4:09 PM	1-530-447-9159
July 1, 2021 at 9:39 AM	1-530-447-9159
July 1, 2021 at 10:17 AM	1-213-505-4080
July 7, 2021 at 11:44 AM	1-530-447-9159
July 7, 2021 at 11:56 AM	1-530-447-9159
July 21, 2021 at 2:39 PM	1-213-463-3665
September 9, 2021 at 5:09 PM	1-213-808-6664
September 11, 2021 at 2:46 PM	1-213-808-6664
October 12, 2021 at 10:19 AM	1-213-261-9568
October 13, 2021 at 4:54 PM	1-707-633-4089
November 17, 2021 at 2:46 PM	1-213-943-2425
November 24, 2021 at 12:59 PM	1-213-338-2841
March 1, 2022 at 12:48 PM	1-916-252-2391
March 24, 2022 at 10:10 AM	1-916-461-7839
May 13, 2022 at 1:00 PM	1-650-459-7503
August 2, 2022 at 8:02 AM	1-657-525-2516
August 8, 2022 at 4:57 PM	1-657-525-2579

22. Upon information and belief, Plaintiff received additional telemarketing calls from Defendant not included in the above list.

23. Plaintiff was able to identify who was calling by specifically asking the caller for which business they were calling. The caller party repeatedly confirmed the calls were on behalf of Homebuyers.

24. In the October 13, 2021 call, Defendant's representative identified herself as "Emma" and stated she was "calling on behalf of Homebuyers." Plaintiff instructed Emma that Defendant must stop all unwanted solicitation calls.

34. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

Wherefore, Plaintiff, **Waldo Romo de Vivar Jr.** respectfully prays for judgment as follows:

- a. All actual damages Plaintiff suffered, as provided under 47 U.S.C. § 227(c)(5);
- b. Statutory damages of \$500.00 per text/call, as provided under 47 U.S.C. § 227(c)(5)(B));
- c. Additional treble damages of \$1,500.00 per text/call, as provided under 47 U.S.C. § 227(c)(5)(C);
- d. Injunctive relief, as provided under 47 U.S.C. § 227(c)(5); and
- e. Any other relief this Honorable Court deems appropriate.

Respectfully submitted,

Dated: September 19, 2022

By: /s/ Joseph D. Steward
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